

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

IN RE:) BANKRUPTCY CASE
)
JOSEPH ANTHONY NICOTERA,) NO.: 20-31700-KLP
CAROLYN MARIE NICOTERA,)
AKA CAROLINE NICOTERA,) CHAPTER 13
Debtor.)
)
)
)
)

OBJECTION TO CONFIRMATION

COMES NOW Bayview Loan Servicing, LLC, by Community Loan Servicing, LLC, the servicing agent (hereinafter known as "Creditor"), a secured creditor holding a Mortgage against the real property commonly known as 7671 Otterspool Street, Kissimmee, FL 34747 (the "Property"), and for the reasons stated below, objects to confirmation of Debtors' Chapter 13 plan (Doc. No. 66) (the "Plan").

1.

Debtor's Plan fails to provide for payment of any prepetition arrearage amount to Creditor. The actual prepetition arrearage amount owed to Creditor on its loan is \$19,493.45 as set forth in its Proof of Claim filed in this case on May 29, 2020 as claim (9-1). Confirmation of the Plan should be denied until Debtor amends the Plan to properly treat Creditor's claim. With the inclusion of the above arrearage amount, the Debtor's Plan as proposed is not feasible. Debtor's plan is also unclear as to whether the Debtor intends to make regular contractual

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payments for Creditor's claim. Debtor's plan should be denied until it is amended to properly provide for the full treatment of Creditor's claim.

2.

Creditor reserves the right to raise the failure of Debtors to have made post-petition mortgage payments if at the time of the confirmation hearing that appears to be the case.

WHEREFORE, Creditor prays that the Court will:

1. Deny confirmation,
2. Award reasonable attorney's fees, and
3. Grant such other and further relief as is just and equitable.

/s/ Daniel Ross

Daniel Ross

VA Bar #79727

Attorney for Creditor

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Bankruptcy Case No.: 20-31700-KLP

Chapter: 13

CERTIFICATE OF SERVICE

I, Daniel Ross, of MCCALLA RAYMER PIERCE, LLP, 777 108th Ave NE, Ste 1895, Bellevue, WA 98004, certify:

That I am, and at all times hereinafter mentioned, was more than 18 years of age;

That on the date below, I served a copy of the within OBJECTION TO CONFIRMATION filed in this bankruptcy matter on the following parties at the addresses shown, by regular United States Mail, with proper postage affixed, unless another manner of service is expressly indicated:

Joseph Anthony Nicotera
1415 Heatherstone Drive
Fredericksburg, VA 22407

Carolyn Marie Nicotera
1415 Heatherstone Drive
Fredericksburg, VA 22407

James E. Kane
Kane & Papa, PC
1313 East Cary Street
P.O. Box 508
Richmond, VA 23218-0508

(served via ECF Notification)

Suzanne E. Wade, Trustee
P.O.Box 1780
Richmond, VA 23218

(served via ECF Notification)

U.S. Trustee
John P. Fitzgerald, III
Office of the US Trustee – Region 4-R
701 E. Broad Street, Ste. 4304
Richmond, VA 23219

(served via ECF Notification)

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on: 6/9/2021
(date)

By: /s/Daniel Ross
Daniel Ross, VA #79727
Attorney for Creditor